IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.MC.No. 3796 of 2005(D)

CC.88/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHENGANNUR

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PETITIONER/2ND RESPONDENT:

C.A.REJIMON @ SHAJAHAN,S/O.ALLIYAR KUNJU
KOLLAMTHAZHACHAYIL CHERUTHAZHAYIL, PAVUKKARA,
KURATTISSERY VILLAGE, ALAPPUZHA DISTRICT.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENTS/COMPLAINANT:

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1. K.K.KRISHNANKUTTY, S/O.KRISHNAN NAIR,
BINDHU BHAVANAM, VIZHAVARJERIKKARA,
KURATTISSERY VILLAGE, ALAPPUZHA DISTRICT.

2. NAJEEB, S/O.SAIDU MOHAMMED,
KANNIMEL THARAYIL HOUSE, PRAMALLUR, KURATTISSERY
VILLAGE, ALAPPUZHA DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU GEORGE
SRI.K.P.SREEKUMAR
SRI.R.GIREESH VARMA
SRI.R.VIJAYAKUMAR
SRI.P.M.SATHEESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3796 of 2005

Dated this the 4th day of December 2006

O R D E R

The petitioner has come to this court with the prayer under Section 482 Cr.P.C that the F.I.R, Annexure A4 registered on the basis of Annexure A3 complaint filed by the respondent before the learned Magistrate and which is referred to the police by the learned Magistrate under Section 156(3) Cr.P.C may be quashed.

2. The crux of the allegation raised in Annexure A3 complaint is that the petitioner induced the complainant to believe that he would discharge a legally enforcible debt/liability and persuaded him to receive a cheque and to present the same in the bank for encashment. This, he would not have done but with the representation that the cheque if presented in the bank can be encashed. But it turned out that the cheque was drawn on a closed account and the misrepresentation was made fraudulently to induce the complainant to accept the cheque.

3. The learned counsel for the petitioner submits that the allegations are totally false. The cheque was not actually issued to the first respondent/complainant. It was issued to another person, namely the second respondent herein. The first and the second

respondents are acting in collusion. In these circumstances, the complaint as also the F.I.R registered on the basis of the said complaint are liable to the quashed. The learned counsel for the first respondent submits that the first respondent has nothing to do with the second respondent. In fact, the first respondent has initiated another prosecution against the second respondent herein, who is alleged to be a name lender for the petitioner/accused. In any view of the matter, there are no circumstances justifying the invocation of the jurisdiction under Section 482 Cr.P.C, submits the learned counsel for the respondent/complainant.

4. Having considered all the relevant inputs, I am persuaded to agree with the learned counsel for the respondent. I find no merit in the contention that the proceedings are liable to be quashed invoking the powers under Section 482 Cr.P.C. I shall carefully avoid any expression of opinion on merits. Suffice it to say that it is for the police now to conduct the investigation and ascertain the truth and take appropriate further action. The petitioner has already been enlarged on bail, it is further submitted. In these circumstances, no further directions in the interests of justice also appear to be necessary.

5. In the result, this Criminal Miscellaneous Case is also dismissed but I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to raise all his contentions before the police and the court at later stages.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006